

# SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION



MARINAS & PORTS

## 1982 ANNUAL REPORT

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Tan Chang's drawing represents two of the Commission's significant accomplishments in 1982: adoption of the San Francisco Bay Area Seaport Plan and Bay Plan amendments resulting from the Recreational Boating Facilities Study. The approximate location of seaports is shown by ships; the approximate location of marinas by small stars.

In addition to designing the covers for this and the 1981 Annual Report, Ms. Chang is the Commission's Bay Development Design Analyst.

Commission meetings, open to the public, are normally held on the first and third Thursday of each month. Contact the Commission office for information on meeting location, time, and agenda.

The Commission's office is located at 30 Van Ness Avenue, Room 2011, San Francisco, California 94102. Telephone: (415) 557-3686.

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# 1982 ANNUAL REPORT

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**SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

30 VAN NESS AVENUE

SAN FRANCISCO, CALIFORNIA 94102

PHONE: 557-3686



December 31, 1982

Governor Edmund G. Brown, Jr.  
Governor-Elect George Deukmejian  
Members of the California Legislature

The Commission is pleased to submit its 1982 Annual Report of activities under the McAtteer-Petris Act, the Suisun Marsh Protection Act, and the Federal Coastal Zone Management Act.

During the year, the Commission issued 26 major and 104 administrative permits that involve \$379 million of development. Permit mitigation measures will result in 262 acres of additional Bay surface and 27 acres of new public access along about five miles of shoreline once these projects are completed.

Four major Federal projects were certified under the Federal Coastal Act. The Commission and Executive Director issued seven Cease and Desist Orders; 29 formal enforcement investigations were begun and 60 were continued from previous years. Most violations of permit conditions and illegal Bay fill have been corrected short of litigation.

The Commission continued its planning program to resolve major issues that otherwise might cause difficulties for the developer, the Commission, and the public in the short 90-day permit review period. Adopted were: the Regional Seaport Plan containing projections of Port expansion needs and listing suitable expansion sites; amendments to the Bay Plan's Recreational Boating Facilities; policies for commenting on proposed projects in "Historic Diked Baylands", once part of the Bay and having a close relationship to it. The Commission certified the local protection components for Solano County and the City of Suisun City, under the Suisun Marsh Preservation Act.

The Commission had the continuing fine advice of its volunteer Citizen's Advisory Committee, Engineering Criteria and Design Review Boards; the Airport and Seaport Regional Advisory Committees; and other public agencies. Public participation has been most valuable with thoughtful comments from both individuals and organizations. Useful links continue with the State Administration and Legislature; the media has been attentive and generally supportive. The Attorney General's office has given effective representation. Mitigation conditions agreed to by developers have allowed conservation and development to co-exist; in turn, no "third party" suit has ever been filed against a BCDC permit.

As this is the final of eight annual reports I will sign, I extend my special appreciation to my fellow Commissioners and to the BCDC staff. With 18 to 20 able Commissioners participating in matters needing decision during a long afternoon, their tolerance had made the Presiding Officer's role possible and pleasureable. And we have been well served by Executive Directors and staff in numbers less than the Commission, a reason their energy, talents and professionalism have had to be of the highest quality.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joe C. Houghteling".

JOSEPH C. HOUGHTELING  
Chair

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## SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

The 27-member Commission was created in 1965 by the California Legislature in response to broad Bay Area concern over the future of San Francisco Bay. The McAteer-Petris Act, the Commission's enabling legislation, gave the Commission the responsibility of preparing "a comprehensive and enforceable plan for the conservation of the water of San Francisco Bay and the development of its shoreline." In 1969, the Commission submitted the completed San Francisco Bay Plan to the Governor and the Legislature. The McAteer-Petris Act was subsequently amended to make the Commission permanent and to give the Bay Plan the force of law.

The two objectives of the Bay Plan are: 1) to protect the Bay as a great natural resource for the benefit of present and future generations; and 2) to develop the Bay and its shoreline to their highest potential with a minimum of Bay filling. To implement the Bay Plan, the Commission:

- \* Regulates all filling and dredging in San Francisco Bay (which includes San Pablo and Suisun Bays, sloughs and certain creeks and tributaries that are part of the Bay system, salt ponds and certain other diked off areas);
- \* Provides, within a 100-foot-wide strip inland from the Bay, public access to the Bay to the maximum extent feasible, consistent with the nature of new shoreline developments; and
- \* Minimizes pressures to fill the Bay by ensuring that the limited amount of shoreline property suitable for regional high priority water-oriented uses is reserved for these purposes. Such priority uses include: ports, water-related industry, water-oriented recreation, airports, and wildlife areas.

In 1977 the California Legislature gave the Commission the added responsibility of implementing the Suisun Marsh Preservation Act in cooperation with local government and the Department of Fish and Game. This legislation enacted into law most of the recommendations of the Suisun Marsh Protection Plan prepared by the Commission during 1976. The Act requires local governments and special districts within the Marsh to prepare a local protection program consistent with the Protection Plan and the Preservation Act. The local protection program includes controls designed to protect the wetlands, riparian habitats, and agricultural lands within the Marsh. In 1982, the Commission certified the local protection components for Solano County and the City of Suisun City. In prior years the Commission had certified the local protection programs of the Solano County Local Agency Formation Commission, the Solano County Mosquito Abatement District, and the Suisun Resource Conservation District. With the exception of the City of Benicia, which has jurisdiction over only a very small strip of the Marsh, the local protection program certification process for the entire Marsh is complete.

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## THE COMMISSION

The San Francisco Bay Conservation and Development Commission (BCDC) is composed of 27 members who represent federal, state, and local governments, and the general public. The Commission members during 1982 were:

(The name of each Commissioner's alternate is shown in parentheses.)

### PUBLIC REPRESENTATIVES

#### Appointed by the Governor

Joseph C. Houghteling, Chairman\*  
San Francisco  
(Vacant)

Hans J. Schiller, Vice Chairman  
Mill Valley  
(Alice L. Graham)

Cynthia Kay, Vallejo  
(Nicholas Arguimbau)

Denis T. Rice, Tiburon  
(Kirsten Olsen)

Paul Chignell, San Anselmo  
(Vacant)

#### Appointed by the Speaker of the Assembly

Earl P. Mills, San Francisco  
(David Jenkins)

#### Appointed by the Senate Rules Committee

Elizabeth Osborn, Fremont  
(Patricia Shelton)

### FEDERAL REPRESENTATIVES

Lt. Col. Edward Lee,  
Col. Paul Basilwich\*  
Maj. Thomas J. Edgerton\*  
U.S. Army Corps of Engineers  
(Calvin Fong)  
(James Wolfe\*)

(Vacant)  
Environmental Protection Agency

### STATE REPRESENTATIVES

Barbara B. Eastman,  
Regional Water Quality Control Board  
(Polly Smith)

Donald L. Lollock,  
State Resources Agency  
(Brian Hunter)

Chon Gutierrez  
Clifford L. Allenby\*,  
Department of Finance  
(S. Calvin Smith)  
(Susanne Morgan\*)  
(Robert L. Harris)\*

Claire T. Dedrick  
William F. Northrop\*  
State Lands Commission  
(Diane R. Jones)  
(Richard S. Golden\*)

Norman Kelley,  
John West\*  
Business and Transportation Agency  
(William J. Dowd)  
(Ethelyn Ann Hansen\*)

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## LOCAL REPRESENTATIVES--CITIES

### Appointed by the Association of Bay Area Governments (ABAG)

Councilman Arthur Lepore,  
City of Millbrae  
(Supervisor Louise Renne,  
San Francisco)

Councilwoman Barbara Kondylis,  
City of Vallejo  
Councilwoman Sherry C. Levit,\*  
City of Belvedere  
(Mayor Carol Singer-Peltz, City of Sausalito)

Councilwoman Dianne McKenna,  
City of Sunnyvale  
(Councilman Robert Bury,  
City of Redwood City)

Councilman Frank H. Ogawa,  
City of Oakland  
(Mayor Valance Gill,  
City of San Leandro)

## LOCAL REPRESENTATIVES--COUNTY

### Appointed by the County Board of Supervisors

Supervisor John T. George,  
Alameda County  
(William H. Fraley)

Supervisor Tom Powers,  
Contra Costa County  
(Supervisor Nancy Fahden)

Supervisor Albert Aramburu,  
Marin County  
(Supervisor Gail M. Wilhelm)

Supervisor Harold Moskowitz,  
Napa County  
(Supervisor Sam Chapman)

Supervisor John L. Molinari,  
San Francisco County  
(Dian Blomquist)

Supervisor Rebecca Q. Morgan,  
Santa Clara County  
(W. Eric Carruthers)

Supervisor K. Jacqueline Speier,  
San Mateo County  
(Mayor Roberta Teglia)

Supervisor Richard Brann,  
Solano County  
(Supervisor Osby Davis)

Supervisor Bob Adams,  
Sonoma County  
(Donald Head)

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\* Commission Members or Alternates Who  
Resigned from the Commission During  
1982.

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## REGULATION

The Commission's regulatory activities fall within three broad, overlapping areas: pre-application coordination with project proponents; permit review and formal action by the Commission or Executive Director; and project monitoring and enforcement activities.

### Pre-Application Work

The Commission encourages project proponents to discuss with its staff at the earliest possible time proposals that may either fall within the Commission's permit jurisdiction, or that may affect the Bay. The staff works with the proponents, local governments, and the public prior to the actual filing and formal processing of permit applications to assure that the project is in conformity with the Commission's laws. This pre-application work varies from simple inquiries concerning jurisdiction or the proper use of fill, to extensive meetings over many months with architects and designers. Because project design has not been finalized at this stage, project sponsors find it easier to comply with Commission policy; changes can be incorporated far more easily than at later stages in the development process. Occasionally it is found that a proposed project cannot be constructed at a given site; such early detection reduces frustration and costs for applicants.

### Permits

The placement of fill, dredging or any substantial change in use of the Bay or shoreline requires a permit. Under the BCDC law, the Commission must complete action on a permit application within 90 days after a completed application has been filed or the permit is automatically granted. As a result, the Commission has one of the most expeditious regulatory processes in state government.

Permits are classified as either "major" or "administrative." Administrative permits are issued by the Executive Director for "minor repairs and improvements," as defined in the Commission's laws and regulations. All other permits are major permits and require a public hearing and action by the Commission. Permits are issued only if the project is consistent with the policies of the San Francisco Bay Plan and the McAteer-Petris Act, or the Suisun Marsh Preservation Act of 1977 and Suisun Marsh Protection Plan, as they apply.

The Permit Summary shows the permit activity for 1982. The Summary does not reflect the large number of projects that did not progress to the permit application stage because the prospective applicants were advised by staff that the projects would not qualify for a permit under the McAteer-Petris Act and the Bay Plan.

The approved projects during 1982 total approximately \$379,000,000 in development expenditures and will result in a total of 24 acres of new Bay fill. The projects will also provide approximately 286 acres of new Bay surface area; thus the net increase in new Bay Area will be 262 acres. In addition, the projects will provide approximately 27 acres of new public access along about five miles of Bay shoreline.

For the five-year period of 1978 through 1982, the Commission approved a total of 179 applications for major permits. According to figures supplied by the applicants at the time the permit application was submitted to the Commission, all projects approved by BCDC total almost \$1,226,000,000 in construction costs. Although these projects required 76 acres of new Bay fill, mitigation measures resulted in 432 acres of new Bay surface, or a net gain of approximately 351 acres of Bay surface. Conditions for approval of the permits also provided for an increase of almost 274 acres of new public access, which adds about 8 miles of linear access to the edge of San Francisco Bay.



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## Permit Summary

Major Permits Granted: 26  
Administrative Permits Granted: 104  
Applications Denied: 0

### Major permits were issued:

To the Marriott Corporation to construct a 10-story hotel and a 14,000-square-foot convention facility on a 9.3-acre parcel near the San Francisco International Airport in Burlingame, San Mateo County. About 3 acres of the site will be devoted to public access consisting of a bicycle/pedestrian shoreline pathway around the site, landscaped areas, seating, and water fountains.

To the City of San Mateo to widen East Third Avenue and construct a new four-lane bridge across Seal Slough near Mariner's Island in San Mateo County. The existing two-lane bridge will be closed to vehicle traffic and improved for public access use. The City will also enhance an 8-acre tidal marsh near Seal Slough, and will provide a 4,500-foot-bicycle/pedestrian pathway along the Bay shoreline.

To the Marshland Development Company to prepare a 7.2-acre site for future development on the south side of Alviso Slough, in the City of San Jose, Santa Clara County. Although only grading and contouring of the site is proposed at this time, public access will be provided on a 800-foot-long pathway around the site and adjacent to the Bay.

To Benicia Industries, three permits for adjacent auto processing and storage facilities located along the Bay just north of the Benicia-Martinez Bridge in Solano County. The total 143-acre project will be paved and enclosed by a security fence, and will include warehouses, office buildings, and auto processing buildings. A bridge over Sulphur Springs Creek within the project will also be constructed. Public access is required along approximately 1-1/4 miles of the shoreline and includes public parking, fishing and picnicking facilities. The developer is also required to dedicate approximately 55 acres of tidal marsh and mudflats adjacent to the site to the State of California for wildlife habitat, improve an undeveloped 1.3-acre shoreline park located in another part of Benicia, and to dedicate and enhance a 10-acre wetland upland from the Bay for wildlife habitat. (The Commission acted on two of these permits on December 16, 1982. The permittee has indicated that it would not execute the permits. The matter was unresolved at the end of the year.)

To the City of Vallejo to expand an existing municipal marina located in Mare Island Strait in Solano County. Public access includes additional picnicking, viewing and fishing facilities, landscaping, and a pathway around the marina.

To David Steckler and Marin County to renovate and expand an existing marina in Richardson Bay, north of the City of Sausalito, in Marin County. The project includes renovation of some existing facilities, expansion from 160 to 220 berths, and the removal of old barges and other debris. The developer will also sub-lease 20 acres of tidelots to Marin County for open space. Public access is provided on a pathway on the project perimeter.

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To Fremont International Partners for a 266-acre industrial park near the Fremont Airport in Alameda County. An adjacent 260-acre area will be returned to tidal action and will include a 40-acre flood control basin and a 25-acre restored marsh. The natural habitat areas will be separated from the industrial park by the long, narrow flood control basin. A public access pathway will be provided on a 2-mile-long levee surrounding much of the tidal area. The developer will also construct two parking/staging areas as well as picnic facilities, landscaping, and other amenities. The industrial park will include electronics component assembly, light manufacturing, research and development, administrative offices, and warehousing.

To the Contra Costa County Sanitation District to construct a wastewater treatment plant for the City of Port Costa. The site is located on the Carquinez Straits in Contra Costa County. The new treatment plant, consisting of filter beds, pipelines, and sewer mains, and two buildings will be constructed between the Southern Pacific Railroad tracks and the Bay. An improved picnicking and fishing area will be opened to public access between the plant and the Bay.

To the Port of Oakland and MacMarin, Inc. to demolish and remove an old restaurant and construct nearby a new restaurant on the Oakland Estuary in Jack London Square in Alameda County. Public pathways and landscaping will be provided around the restaurant and on the edge of the Bay at the site.

To the City of Alameda and the Aeolian Yacht Club to resurface and expand an existing parking lot along the shoreline near the Bay Farm Island Bridge in the City and County of Alameda. Public access includes viewing and picnicking areas and a pathway around much of the project site.

To Rich Diodati to construct a marina and office/industrial park northwest of the existing Oyster Point Marina, in the City of South San Francisco, San Mateo County. The marina will provide berths for 227 pleasure boats and will be located within the surrounding office building and warehouse complex. About 10.3 acres of public access will be provided throughout the site and includes picnic facilities, pathways, landscaping, and parking.

To the City of Menlo Park to expand its public dump located near the Flood and Westpoint Sloughs in San Mateo County. The City requires the additional 11.5 acres to expand its refuse disposal capacity until a new regional dump site is operational. No public access is provided, but the City will establish a \$150,000 fund to acquire land to be returned to tidal action when such land becomes available.

To Triple "A" Machine Shop Inc. to renovate and restore several drydocks at the Hunter's Point Naval Shipyard in the City and County of San Francisco. The project will expand ship repair services at the site. Because of the nature of the project, no public access is provided at the site; however, the developer will provide public access improvements at the nearby Candlestick Point State Recreation Area.

Also to Triple "A" Machine Shop Inc. to construct 500 dry boat storage spaces, recreational vehicle spaces, chandlery and other facilities at the Hunters' Point Shipyard. Public access includes approximately 1,600 feet of shoreline with landscaping, boat launch and picnicking facilities. (The Commission approved this application at its December 16, 1982 meeting. The permittee has indicated an unwillingness to accept the permit as conditioned. The matter was unresolved at the end of the year.)

To the Alameda County Flood Control and Water Conservation District for an eight-year master permit to perform maintenance dredging of 10 flood control channels into the Bay at various locations in Alameda County. No public access will be provided as a result of this permit, but the District is required to provide certain unspecified improvements to the East Bay Regional Park District as the Park District is able to develop and maintain them.

To the City of Berkeley to renovate and expand the existing Berkeley Municipal Fishing Pier in Alameda County. Improvements include restoration of the existing pier, 200 feet of new pier, and installation of an artificial reef under the piers. The entire area of the fishing pier will be open to the public.

To the Central Marin Sanitation Agency to construct a new wastewater treatment plant and Bay outfall and interceptor pipes in and near the Cities of Larkspur and San Rafael, Marin County. Public access includes improvements to Remillard Park in Larkspur, improving the levee where the outfall occurs for public use, and dedication of 4,400 square feet for a future wildlife habitat area.

To the Port of Oakland to make permanent a dike located at the end of the main runway of the Oakland International Airport in Alameda County. The dike was allowed to remain in place to protect a nesting area of the least tern, an endangered species. A number of culverts will be placed in the dike to open an 8-acre area to tidal action. The top of the dike will be landscaped and will be available to the public.

To the City of Alameda to relocate and widen the intersection of Doolittle Drive and Harbor Bay Parkway, located adjacent to Doolittle Pond and San Leandro Bay in Alameda County. The project includes a pedestrian/bicycle pathway between the roadway improvements and the Bay.

To the City of Benicia, an amendment to its permit for construction of the Benicia Marina. The developer will provide an additional 3/4-acre public area adjacent to the water in another part of the marina as the result of reducing public access to the piers, visitor dock, and small boat tie-up dock within the proposed marina.

To the Port of Redwood City for the mooring of up to 150 LASH barges for a two-year period, south of Corkscrew Slough in San Mateo County. The barges will cover a maximum of six acres of Bay surface and some will rest on the bottom during some stages of low tide. No public access is provided for this temporary-use permit.

#### Suisun Marsh Permits

Under the Suisun Marsh Preservation Act of 1977, local governments and special districts with jurisdiction in the 100-square-mile Suisun Marsh in southern Solano County have prepared components of a local protection program for their areas of the Marsh. In addition, a Marsh development permit is required for any development in the Marsh. BCDC issues the permit within the "primary management area," which includes the wetlands within the Marsh. Local governments issue the permit within the "secondary management area," which surrounds the primary management area and consists mainly of agricultural land that is part of the Marsh ecological system. Both types of permits must be consistent with the local protection program and the Act.

Marsh development permits issued by local governments in the secondary management area are appealable to BCDC. However in 1982, no permits were appealed to the Commission. This was due in part to close coordination between the Commission and the local governments.

BCDC granted one significant permit in the primary management area of the Marsh:

To the Dow Chemical Corporation to conduct exploratory drilling for natural gas near Nurse Slough. No public access is provided at this time, and if the exploratory well is unsuccessful, all the improvements will be removed and the area returned to tidal action. However, if it is successful, Dow will seek a permanent permit for the pumping and pipeline facilities and will provide appropriate public access.

Considerable staff time was also devoted to pre-application discussions on a wide range of projects including construction of radio towers, a pet cemetery, and development of wind-powered electricity generators. A major concern of the Commission are the many proposals for development of these wind-powered turbines in the Marsh. Solano County included an ordinance within its local protection program component permitting the turbines. Further research will be necessary on the impact on migratory birds and the visual qualities of the Marsh.

#### Consistency Determinations

Under the terms of the Federal Coastal Zone Management Act of 1972, BCDC reviews proposals involving federal activities within its jurisdiction or directly affecting the Bay segment of the California coastal zone for consistency with the Commission's federally approved Management Program. During 1982, BCDC acted on several federal projects including:

The Department of the Army proposal to renovate and improve Wharf 7 at the Oakland Outer Harbor Army Base.

Department of the Navy proposals for three major projects: dredging at Point Molate near Richmond; a one-half mile-long sewer outfall and related improvements to the sewer discharge system at the Point Molate Naval Fuel Depot; and for dredging 450,000 cubic yards initially and approximately 300,000 cubic yards annually for a ten-year period at the Naval Supply Center in Oakland.

#### ENFORCEMENT PROGRAM

In 1977, the Commission began a much needed enforcement program. Under the program, the Commission has investigated reports of unauthorized fill and construction within its jurisdiction and reviewed all BCDC permits issued since September 1965 for compliance with various specific permit conditions.

During 1982, 29 formal investigations of enforcement matters were begun, over 60 previously initiated cases were carried over, and numerous other reports of possible violations were investigated. In most cases, after the staff identified the problem and contacted the responsible party, satisfactory solutions were reached. Since the program began, approximately 75 percent of the cases have been resolved at the site or by permit amendment.

Although most enforcement matters are found to be minor infractions, with the parties willing to cooperate to resolve them quickly, some cases require stronger enforcement measures. In 1982, the Commission and the Executive Director issued a total of seven cease and desist orders.

A major case carried over from 1981 was resolved in 1982 involving filling and grading performed without the required permits in a marsh located near Suisun City in Solano County. After three evidentiary hearings by a five-member committee appointed by the Commission, the property owner stipulated to a Cease and Desist Order which included removal of fill from a tidal marsh, breaching of old dikes to improve circulation to the marsh, and dedication of the marsh to permanent open space.

Some of the major enforcement matters in 1982 included:

The Executive Director issued an order that stopped dredging and disposal work at Erman's Pier Harbor near Benicia in Solano County. The property owner had applied for a permit for the work, but the application was returned without action because of its incompleteness. The property owners resubmitted an application that was approved, subject to conditions protecting wetlands at the site.

The Executive Director issued an order to prevent the commencement of construction of a parking lot and street in the City of Benicia, Solano County. The parties had submitted an incomplete application which was returned. Subsequent to the order, a completed application was submitted, and a permit for the work was issued.

The staff discovered that boat docks and other shoreside improvements were being constructed without prior plan approval and in locations not covered by a previously issued permit in the City of Oakland, Alameda County. In addition, public access improvements had not been installed prior to use of the commercial facilities, also in violation of the permit. The permittee is developing an acceptable plan for bringing the project into conformance with the permit.

As a result of an order issued by the Executive Director, construction of several pile-supported structures in an area subject to tidal action on Corte Madera Creek, near the City of Larkspur in Marin County, was halted. The structures were used to store materials and equipment. The parties have removed some of the structures and have submitted a permit request for the remaining facilities.

Staff discovered that commercial areas, at a previously approved project in Redwood City, were being used prior to dedication and improvement of public access in violation of a permit granted in 1979. Also portions of the project were sold without assignment of the permit to the new property owner. The staff is now working with the permittee to resolve the matter before evidentiary hearings on a proposed cease and desist order are initiated.

Issuance of a cease and desist order halted grading and construction of a launching ramp at a site in the City and County of San Francisco. Although an application had been filed and was being reviewed by the Commission, the applicant had started work before the Commission could consider the project. Subsequently, the Commission issued a permit for the project, subject to provision of public access improvements along a nearby shoreline area.

A stipulated order was issued regarding a boat dock that had been installed without a permit in Marin County. The project had been denied previously by the Commission on the grounds that the dock would contribute to the cumulative impact of increased boat traffic, endangering a nearby harbor seal haul-out area. The property owner reapplied for a permit, which was subsequently granted with conditions limiting use of the dock to certain times that would have the least impact on the seal population.

A cease and desist order was issued requiring compliance with conditions of a permit granted in 1973 to the Port of San Francisco which authorized the construction and use of a restaurant on the plaza behind the Ferry Building, in the City and County of San Francisco. The order required that unauthorized parking in areas reserved for public access be stopped.

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## PLANNING ACTIVITIES

### Seaport Plan

The San Francisco Bay Area Seaport Plan was adopted by the Commission in December of 1982. The Plan recognizes that Bay Area ports must compete with other West Coast ports in order to gain the new cargoes which are important to the Bay Area economy while, at the same time, they must be responsive to other concerns of the region. The Plan is the work of the joint MTC/BCDC Seaport Planning Advisory Committee. The committee included representatives from a wide range of Bay Area interests: the six Bay Area ports located in Benicia, Encinal Terminals, Oakland, Redwood City, Richmond, San Francisco; BCDC and MTC; CalTrans; the U.S. Army Corps of Engineers and the U.S. Maritime Administration; the Bay Area Council and Association of Bay Area Governments; and the Save San Francisco Bay Association.

The Committee's first meeting was in September, 1974. The necessarily lengthy planning process brought into one forum the many participants involved in port expansion, participants whose interests may initially have seemed to be irreconcilable. Yet through the informative technical reports and the understanding generated by monthly meetings, the Plan was adopted by the Committee by a vote of fourteen to one. The Commission itself adopted the Plan unanimously.

The Plan concludes that there will be a need for significant port expansion over the next two decades (dry cargo will double and containerized cargo will quadruple by the year 2000). In order to meet this demand, the Plan designates areas to be reserved for marine terminals and related facilities and provides that these areas should be protected for port use by the MTC and BCDC and, through mutual cooperation, by the ports and local governments. In order to meet the projected demand with a minimum of adverse impact, the Plan provides that new terminals should be permitted only when shown to be needed and when located at one of the sites designated by the Plan as the best available.

The Plan recognizes that increased cargo creates a long-range demand for expanded Bay Area maritime facilities, which can be met in two ways: by building new facilities, and by making better use of existing ones. Channel deepening, increasing land area of existing terminals, and greater terminal productivity also can reduce the pressure for new terminals and their attendant costs and environmental impacts. The Plan also provides for coordination of ground transportation development and identifies several specific short and medium-range projects that will improve the flow of goods to and from Bay Area ports. The Plan also encourages local government to take actions that enhance access to ports.

### East Bay Regional Shoreline Park

The Commission staff, working closely with the State Department of Parks and Recreation and the Conservancy, produced a report on the East Bay Shoreline. The purpose was to identify conflicting land uses and to prioritize desirable projects that would be funded by the Conservancy. BCDC staff also participates in the ongoing East Bay Shoreline Park Advisory Committee and continues to coordinate requests for Conservancy-funded projects within the proposed park. BCDC issued a permit in 1982 for the first of such projects: improvement of small boat docks in the Berkeley Marina.

### Energy Facilities

BCDC coordinates with the California Energy Commission and the California Coastal Commission in reviewing potential power plant sites within the Bay. BCDC also reviewed and advised on potential Bay coal-terminal development, construction and transporting of off-shore oil drilling equipment on the Bay shoreline, natural gas exploration in the Suisun Marsh, and pre-project planning and environmental review of wind-powered electricity generators. The staff also studied the advisability of retaining a designation for a future central bay super-tanker terminal in the Bay Plan.

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### Diked Historic Baylands

The Diked Historic Baylands Study and maps were adopted by the Commission in October 1982. Begun in April 1979, the study looked at diked seasonal wetlands that were historically part of San Francisco Bay but were diked off from tidal action and are not within the Commission's jurisdiction.

The study found that there were approximately 80 square miles of diked baylands located at 289 sites throughout the Bay Area. Five technical reports provided the background for the staff report and the findings and policies: Agricultural, Recreational, and Ecological Values of Diked Historic Baylands; Guidelines for Restoration and Enhancement of Baylands; and Analysis of Powers Exercised by Regulatory Agencies over Diked Baylands. Policies will be used as the basis for comments on projects requiring a Corps' permit and for comments on environmental documents for proposed projects. They include policies that discourage fill of diked baylands for non-priority uses, urge retention of baylands currently in agricultural use until it can be proven that it is no longer economical to continue such use, and recommend that mitigation be provided whenever baylands are filled.

The study received widespread Bay Area interest. In response the Commission held eight public hearings, plus many preliminary meetings between the Commission staff and interested parties. The Commission maintained a mailing list of over 800 interested parties including private citizens and land owners; the construction and land-development industry; and all levels of municipal, county, state, and federal government. During the roughly three-month-long public hearing process, the Commission revised many of the maps designating diked baylands, and modified preliminary findings and policies in response to public comment.

### California Coastal Conservancy

In 1981 the Conservancy's area of authority was enlarged to include the Bay Area, allowing cities and counties in the Bay Area to apply for funding for public access improvements and urban waterfront and wetland enhancement projects. BCDC staff works closely with the Conservancy in pre-project planning to assure that proposals are consistent with the Bay Plan.

In 1982 the Commission made specific consistency determinations and recommendations for funding for six Bay Area Conservancy projects totaling \$1.2 million: (1) for 1,500 feet of new levee trails in the Greater Vallejo Recreation District; (2) for a 3,500-foot-long bicycle/pedestrian path and upgrading for public use portions of the Alameda City Dump in the City of Alameda; (3) for a two-mile-long pedestrian/bicycle path connecting an existing trail within the East Bay Regional Park District to the San Lorenzo Creek Bridge in the City of San Leandro; (4) for a 200-foot-long, two-way pedestrian/bicycle bridge across San Lorenzo Creek which aids the ultimate construction of 10 miles of shoreline trail along the East Bay; (5) for a 6,500-foot-long bicycle/pedestrian trail along levees in the Cities of Palo Alto and East Palo Alto plus a 150-foot-span bridge crossing San Francisquito Creek (this project will connect the Baylands Bicycle Path with bicycle facilities at the newly-opened Dumbarton Bridge); and (6) for a major 625-acre wetland acquisition and enhancement project at Rush Creek in Marin County.

### Outer Continental Shelf Oil Leases

The staff continued to coordinate with the Governor's Office of Planning and Research and other interested State agencies on Outer Continental Shelf leasing and related activities that might affect the Bay, such as the fabrication of exploratory and pumping facilities within the Bay Area and transportation of crude oil to Bay Area refineries. This expanded use of existing facilities in the Bay Area must be anticipated in order to minimize the potential harmful impacts on the Bay Area.

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## Recreational Boating Facilities

In December 1982, the Commission adopted several changes to the San Francisco Bay Plan resulting from recommendations contained in its recently completed Recreational Boating Facilities study. The study was prepared in response to the Commission's concern over the impacts, number, appearance, and design of marinas; the Commission has received numerous applications for new and expanded marinas over the last 10 years. The study also reviewed the needs for and impacts of boat launching facilities and small boat docks. The study recognized that San Francisco Bay is one of the most exciting areas in the world for recreational boating, from world class racing to wind-surfing. The study found that there are now extensive marinas and related facilities within the Bay Area and that there is a continued demand for more berthing space. It also found that, with proper planning, new and expanded marina development is possible without adverse environmental impacts on the Bay.

In response to findings in the study, the Commission adopted two basic changes to the Bay Plan:

1. Existing Bay Plan policies indicated that large amounts of fill could be authorized for marina support facilities (particularly parking lots, roads, and storage areas) and that sites that are water-covered or that contain valuable wetlands might be appropriate for marinas. Because developers rely on the Bay Plan policies in the early planning stage of marina projects, the Bay Plan was changed to indicate that such filling would not be authorized unless under very stringent conditions; and location criteria were clarified to ensure the protection of high-value wetlands and water-covered areas for habitat.

2. Symbols for possible marina sites were removed from Bay Plan maps. The study found that existing policies clearly state that marinas may be sited at any location in the Bay so long as the siting, fill, and priority use policies are satisfied. The Commission found, that although thirty-four marina projects were approved by the Commission between 1970 and 1982, only two were at sites shown in the Bay Plan as possible marina sites, and therefore such site designations were unnecessary and potentially misleading. The Bay Plan now provides that a case-by-case analysis of each proposed project will occur, and that marinas may be built at any suitable site.

## Highway 101 Study

Highway 101 on the Peninsula has experienced significant nearby development over the last few years. Newly completed and proposed projects east of Highway 101 account for over 20,000,000 square feet of retail, industrial, and office space; over 6,000 new hotel rooms; and approximately 7,500 new residential units. Concerned that the potentially cumulative impacts of such development on the regional transportation system could lead to pressures for Bay fill to accommodate travel demand, the staffs of the Metropolitan Transportation Commission and BCDC conducted a study to assess the travel impacts of the development.

The study found that there was a substantial potential impact on the regional transportation system. The Commission concluded that the best way to manage this potential impact is for MTC, the regional transportation planning agency, San Mateo County, the cities along Highway 101, San Mateo Transit District, and CalTrans to work together to develop strategies for managing highway and transit facilities along the the transportation corridor.



## Regional Airports

Because airports have historically required large amounts of Bay fill (both Oakland and San Francisco International Airports are built almost entirely on fill), the Commission is vitally concerned with all development within or near Bay Area airports. The Commission on its own behalf, and as a member of the MTC/ABAG Regional Airport Planning Committee, reviewed a wide range of proposed projects during 1982: a runway extension on Bay fill at San Carlos Airport, a master plan for development of the Oakland North Field Airport, proposed high-rise hotels near the departure path of San Francisco Airport, a proposed 68-story office building that could interfere with flight activities at the Oakland Airport, and a grant request for planning an expansion at Marin County's Gnosss Field. The Commission also reviewed Federal Aviation Administration regulations affecting navigable airspace, air travel trends affecting the Bay Area (which resulted in revised forecasts of air traffic), and continues to monitor the multitude of lawsuits seeking damages from San Francisco Airport for noise impacts.

## Freshwater Inflow

This study reviewed information developed by the State Water Resources Control Board during its adoption of the Delta Plan and the issuance of a new water rights decision (Decision 1485) in 1978. As a result of this information, the findings and policies on fresh water inflow were changed.

The Commission also considered various water measures under consideration by the Legislature and took positions emphasizing the importance of fresh water inflow to the Bay system and the need to study fully impacts on the Bay of any further diversions of fresh water.

In accordance with the Commission's adopted work program, the Commission began the following studies in 1982:

## Richardson Bay Special Area Plan

The Commission completed a feasibility study, prepared with the cooperation of Marin County and the Cities of Mill Valley, Tiburon, Sausalito, and Belvedere. They found that because of increased demand for use of Richardson Bay for pleasure and houseboat marinas, the need to control the increasing number of anchor-out boats, and the need for a unified set of planning policies and regulatory controls by the Commission and local governments, further study was both feasible and needed. As a result, the Commission and Marin County have undertaken a Special Area Plan, supported in part by a generous grant from the San Francisco Foundation.

## Fill Controls

The Commission initiated the study to resolve questions concerning legal aspects of whether or to what extent the Commission can require mitigation, the public trust and its implications for BCDP policies, and regulation of fill in general. Conducted in cooperation with the California State Attorney General's Office and other legal consultants, it will be considered by the Commission in early 1983.

## Houseboat and Live-aboard Facilities Study

A companion to the recreational boating and fill control study, it examines the Commission's past permit activities and legal restrictions, particularly the public trust, affecting houseboats and live-aboards. It is expected to be completed by mid-1983.

## Water Quality Study

This study will review changes made since the late sixties in state and federal water pollution laws, the development of new water quality management plans, the current state of water quality in the Bay, and water quality information developed from recent research efforts, to determine whether revised or additional findings and policies regarding water quality should be considered as possible Bay Plan amendments.

## LEGISLATION

Assembly Bill 675, the Commission's legislative program introduced by Assemblyman Byron Sher, was passed and signed into law by the Governor in 1982. The bill made changes to the Commission's Bay Fill Clean-up and Abatement Account, whereby fines would be deposited in the account rather than going directly into the State's General Fund, and changed provisions for expenditure from the account to allow the Commission to use the funds in any part of the Bay, rather than only in certain prescribed areas. The bill as originally introduced by Assemblyman Sher would also have provided civil penalties for violations of BCDC law, but this portion was deleted from the final version of the bill.

The Commission also reviewed and took positions on several other bills affecting the Bay or the Commission's policies. For example: (1) AB 1531, which transferred certain tidelands to the City of Brisbane, was amended to address concerns expressed by BCDC; (2) BCDC supported AB 1418 which created a land bank administered by the State Lands Commission; (3) BCDC opposed AB 2286 which would have transferred certain tidelands and submerged lands to a private party without corresponding benefit to the public as required by existing law; (4) BCDC supported the currently pending SB 1858 which would prohibit leasing for oil and gas extraction on certain tidelands in the Bay and along the coast; (5) BCDC, along with several other agencies, strongly opposed AB-1879 which would have established a conclusive presumption against the public trust; (6) BCDC opposed SB 1214 which would have terminated the public trust on certain tidelands and submerged lands; and (7) BCDC opposed SB 1766 which would have deleted portions of the Napa River from the Commission's jurisdiction and would have removed a requirement for erosion control from the Suisun Marsh Preservation Act.

## LEGAL ACTIVITIES

In 1982 the Commission was involved either directly or as friend of the court in several important lawsuits that raised major land use issues affecting the Commission. Two major lawsuits were continued from the prior year:

State of California ex rel. San Francisco Bay Conservation and Development Commission v. United States, et al. (Hamilton Air Force Base litigation). In June 1980, the United States General Services Administration (GSA) announced its final disposition of Hamilton Air Force Base in Marin County. The Commission believed the proposed disposition was not consistent with the BCDC law or the Bay Plan, which designated Hamilton for airport priority use to reduce pressures for airport fill at other bayfront airports. The Commission filed suit against GSA to require submission and Commission approval of a consistency determination under the federal Coastal Zone Management Act. This litigation is still pending.

Leslie Salt v. BCDC. The Commission issued a cease and desist order against Leslie Salt Company requiring the removal of illegal fill that had been placed by unknown persons on Leslie's property in the south Bay on Alviso Slough some time between 1971 and 1976. Leslie subsequently sued to invalidate the order and to prohibit any further Commission enforcement proceedings. Leslie contends that a landowner has no liability under the McAteer-Petris Act under these circumstances. The trial court agreed with Leslie and mandated the order rescinded. The Commission has appealed the decision to the California Court of Appeal.

The Commission participated in two other significant pieces of litigation in 1982:

State of California, et al. v. Baldrige, et al. In late 1981 the California Coastal Commission, BCDC and the State challenged proposed federal regulations defining various statutory terms in federal consistency provisions of the Coastal Zone Management Act. The proposed regulations would have excluded oil and gas pre-leasing activities of the federal government on the Outer Continental Shelf and the transfer of federal property from the federal government to other entities from complying with state regulatory programs for coastal zone management (i.e. consistency determination).

Partly as a result of this lawsuit and partly as a result of intense Congressional pressure, the Commerce Department withdrew the proposed regulations pending action by a federal task force established to study and propose new legislation. In 1982 the Department of Commerce withdrew its support of the proposed regulations, and the case has therefore been dismissed as moot.

Pacific Legal Foundation v. California Coastal Commission and Jackson and Hunter v. California Coastal Commission. These two cases challenged public access guidelines used by the California Coastal Commission for permits. The California Court of Appeal held that the guidelines violated the California Constitution and were inconsistent with the California Coastal Act. The Coastal Commission petitioned the California Supreme Court to review the decision, and because of the possible impact upon BCDC's own public access guidelines, BCDC filed an amicus curiae brief supporting the Coastal Commission's plea and urging the Supreme Court to reverse the earlier decision.

On December 20, 1982 the Supreme Court decided that the cases had been improperly consolidated. In Jackson and Hunter the Court found that plaintiffs were not entitled to private attorney general fees. In Pacific Legal Foundation the Court decided that the question of the validity of the public access guidelines was not yet ripe for decision because the question had not been raised by a party directly affected.

Other significant legal activities included:

Compliance with Assembly Bill 1111. This legislation, enacted in 1980, requires that all state agencies review their existing regulations for compliance with five criteria: authority, necessity, clarity, consistency, and reference. The staff completed its review, reorganization and rewrite of the existing regulations in the latter part of 1982. The Commission filed a Notice of Completion with the Office of Administrative Law, and will consider the new version of its regulations for adoption in early 1983.

Review of Regulations. BCDC's staff reviewed and commented on regulations proposed by the United States Army Corps of Engineers for the implementation of the Corps' permit program under Section 10 of the Rivers and Harbors Act of 1899 and under Section 404 of the Clean Water Act on existing United States Environmental Protection Agency regulations under Section 404(b) of the Clean Water Act and on new regulations proposed by the California Department of Resources under the California Environmental Quality Act. The staff made extensive comments on each set of proposed regulations to support the continued protection of San Francisco Bay and its immediate surroundings, and for compliance with the Commission's laws and regulations.

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## ENGINEERING CRITERIA REVIEW BOARD

Members of this Board are specialists in the fields of structural engineering, soils engineering, geology, engineering geology and architecture. They advise the Commission on the safety of proposed Bay fill projects. Board members volunteer their time for multidisciplinary review of projects proposed in earthquake-prone areas with problematic soil conditions.

Dr. Robert E. Wallace, Geologist  
U.S. Geological Survey, Menlo Park  
Chairman

Donald Harms, Architect  
Friedman, Sagar, McCarthy and Miller  
San Francisco

Dr. Richard H. Jahns, Geologist  
Stanford University, Palo Alto

Raymond Lundgren, Soils Engineer  
Woodward-Clyde Consultant  
San Francisco

Alan L. O'Neill, Engineering Geologist  
Converse, Ward, Davis, Dixon and  
Associates, San Francisco

Joseph P. Nicoletti, Structural Engineer  
John A. Blume and Associates  
San Francisco

Dr. Egor P. Popov, Structural Engineer  
University of California, Berkeley

John E. Rinne, Structural Engineer  
Kensington

A. E. Wanket, Civil Engineer  
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San Francisco

Dr. T. Leslie Youd  
Soils Engineer  
U.S. Geological Survey  
Menlo Park

Prof. James M. Duncan  
Soils Engineer  
University of California, Berkeley

Prof. Gerald W. Clough, Soils Engineer\*  
Stanford University  
Palo Alto

## DESIGN REVIEW BOARD

Members of the volunteer Design Review Board advise the Commission on the appearance, design, and public access of proposed projects requiring BCDC permits. Because the Commission may only approve a project if maximum feasible public access consistent with the project is provided, the advice of the Board regarding public access provided by such projects is a critical part of the application process.

Jacob Robbins, Chairman  
Architect/Planner  
Robbins and Ream, San Francisco

Mai Arbegast, Landscape Architect  
Berkeley

Eldon Beck, Landscape Architect  
Mill Valley

Robert Cooper, Engineer\*  
Cooper, Clark and Associates  
Redwood City

John Field, Architect  
Bull, Field, Volkmann, and Stockwell  
San Francisco

Stanley Gould, Architect  
Design Professionals, Inc.  
San Jose

Kenneth Simmons, Architect  
Community Design Collaborative  
Oakland

John Weese, Architect\*  
Mill Valley

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\*Board Member who resigned during 1982

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## CITIZENS ADVISORY COMMITTEE

The legislatively mandated Citizens Advisory Committee assists and advises the Commission in carrying out its responsibilities. The 20-member Committee is representative of a broad cross-section of interests concerned with the future of San Francisco Bay and its shoreline.

Walter A. Abernathy  
Port of Oakland

Rose Beatty  
Los Altos

Henry Bostwick, Jr.  
San Mateo County Development  
Association  
San Mateo

Richard M. Boswell  
Pacific Inter Club Yacht  
Association  
El Cerrito

Robert D. Brown, Jr.  
U.S. Geological Survey  
Menlo Park

Mrs. Ward Duffy  
Portola Valley

Mrs. Sylvia Gregory  
San Bruno

Mrs. Esther Gulick  
Berkeley

Dr. Michael Herz  
Oceanic Society  
San Francisco

Shiraz Kaderali  
Pacific Gas and Electric Company  
San Francisco

William Newton  
Landscape Architect  
Berkeley

Burton Rockwell  
American Institute of Architects  
San Francisco

Henry W. Simonsen  
IT Corporation  
Martinez

Dwight Steele  
Attorney  
Walnut Creek

Richard Trudeau  
East Bay Regional Park District  
Oakland

(Five Vacancies)

Commissioners and Staff representing  
BCDC on other Commissions, Committees  
and Boards:

### Metropolitan Transportation Commission

Joseph C. Houghteling

### Regional Airport Planning Committee

Hans J. Schiller  
(Alternate: Phil Kern)

### Seaport Planning Advisory Committee

Joseph C. Houghteling  
(Alternate: Michael B. Wilmar)

### San Francisco Bay Shellfish Program

Hans J. Schiller

### Association of Bay Area Governments, Regional Planning Committee

Cynthia Kay  
(Alternate: Jeffry S. Blanchfield)

### Special Committee for Bryan Cease and Desist Order

Nicholas Arguimbau, Chairman  
Richard Brann  
Barbara Eastman  
Earl Mills  
Hans J. Schiller

### Richardson Bay Special Area Plan Steering Committee

Barbara Eastman  
Barbara Kondylis  
Hans J. Schiller

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Assistant Executive Director

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Chief of Regulation

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Robert S. Merrill  
Enforcement/Permit Analyst

Randa Phillips  
Enforcement/Permit Analyst

Lorez A. Patton  
Enforcement/Permit Secretary

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Robert J. Batha  
Permit Analyst

Linda M. Pirola  
Permit Analyst

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Senior Planner

Margit Hind  
Coastal Program Analyst

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Jennifer R. Cherniss  
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### Court Reporter

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